

## § 1501.10

## 40 CFR Ch. V (7–1–24 Edition)

(A) State, Tribal, and local governments and agencies that may be interested or affected by the proposed action.

(B) Following the affected State or Tribe's public notification procedures for comparable actions.

(C) Publication in local newspapers having general circulation.

(D) Other local media.

(E) Potentially interested community organizations, including small business associations.

(F) Publication in newsletters that may be expected to reach potentially interested persons.

(G) Direct mailing to owners and occupants of nearby or affected property.

(H) Posting of notification on- and off-site in the area where the action is to be located.

(I) Electronic media (*e.g.*, a project or agency website, dashboard, email list, or social media). Agencies should establish email notification lists or similar methods for the public to easily request electronic notifications for a proposed action.

(6) Make environmental impact statements, the comments received, and any underlying documents available to the public pursuant to the provisions of the Freedom of Information Act, as amended (5 U.S.C. 552), and without charge to the extent practicable.

(d) *Public meetings and hearings.* Agencies shall hold or sponsor public hearings, public meetings, or other opportunities for public engagement whenever appropriate or in accordance with statutory or regulatory requirements or applicable agency NEPA procedures. Agencies may conduct public hearings and public meetings by means of electronic communication except where another format is required by law. When determining the format for a public hearing or public meeting, such as whether an in-person or virtual meeting, or formal hearing or listening session is most appropriate, agencies shall consider the needs of affected communities. When accepting comments for electronic or virtual public hearings or meetings, agencies shall allow the public to submit comments electronically, by regular mail, or by other appropriate methods. Agencies

should make a draft environmental document available to the public at least 15 days in advance when it is the subject of a public hearing or meeting unless the purpose of such hearing or meeting is to provide information for the development of the document.

(e) *Agency procedures.* Agencies shall make diligent efforts to engage the public in preparing and implementing their NEPA procedures (§1507.3 of this subchapter).

### § 1501.10 Deadlines and schedule for the NEPA process.

(a) To ensure that agencies conduct sound NEPA reviews as efficiently and expeditiously as practicable, Federal agencies shall set deadlines and schedules appropriate to individual actions or types of actions consistent with this section and the time intervals required by §1506.10 of this subchapter. Where applicable, the lead agency shall establish the schedule for a proposed action and make any necessary updates to the schedule in consultation with and seek the concurrence of any joint lead, cooperating, and participating agencies, and in consultation with any applicants.

(b) To ensure timely decision making, agencies shall complete:

(1) Environmental assessments within 1 year, unless the lead agency extends the deadline in writing and, as applicable, in consultation with any applicant, and establishes a new deadline that provides only so much additional time as is necessary to complete the environmental assessment.

(2) Environmental impact statements within 2 years, unless the lead agency extends the deadline in writing and, as applicable, in consultation with any applicant and establishes a new deadline that provides only so much additional time as is necessary to complete the environmental impact statement.

(3) The deadlines in paragraphs (b)(1) and (2) of this section are measured from the sooner of, as applicable:

(i) the date on which the agency determines that NEPA requires an environmental impact statement or environmental assessment for the proposed action;

(ii) the date on which the agency notifies an applicant that the application

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to establish a right-of-way for the proposed action is complete; or

(iii) the date on which the agency issues a notice of intent for the proposed action.

(4) The deadlines in paragraphs (b)(1) and (2) of this section are measured to, as applicable:

(i) For environmental assessments, the date on which the agency:

(A) Publishes an environmental assessment;

(B) Where applicable, makes the environmental assessment available pursuant to an agency's pre-decisional administrative review process; or

(C) Issues a notice of intent to prepare an environmental impact statement; and

(ii) For environmental impact statements, the date on which the Environmental Protection Agency publishes a notice of availability of the final environmental impact statement or, where applicable, the date on which the agency makes the final environmental impact statement available pursuant to an agency's pre-decisional administrative review process, consistent with § 1506.10(c)(1) of this subchapter.

(5) Each lead agency shall annually submit the report to Congress on any missed deadlines for environmental assessments and environmental impact statements required by section 107(h) of NEPA.

(c) To facilitate predictability, the lead agency shall develop a schedule for completion of environmental impact statements and environmental assessments as well as any authorizations required to carry out the action. The lead agency shall set milestones for all environmental reviews, permits, and authorizations required for implementation of the action, in consultation with any applicant and in consultation with and seek the concurrence of all joint lead, cooperating, and participating agencies, as soon as practicable. Schedules may vary depending on the type of action and in consideration of other factors in paragraph (d) of this section. The lead agency should develop a schedule that is based on its expertise reviewing similar types of actions under NEPA. All agencies with milestones, including those for a review, permit, or authorization, in the

schedule shall take appropriate measures to meet the schedule. If a participating agency anticipates that a milestone will be missed, the agency shall notify, as applicable, the agency responsible for the milestone and the lead agency, and request that they take appropriate measures to comply with the schedule. As soon as practicable, the lead and any other agency affected by a potentially missed milestone shall elevate any unresolved disputes contributing to the potentially missed milestone to the appropriate officials of the agencies responsible for the potentially missed milestone, to ensure timely resolution within the deadlines for the individual action.

(d) The lead agency may consider the following factors in determining the schedule and deadlines:

(1) Potential for environmental harm.

(2) Size of the proposed action.

(3) State of the art of analytic techniques.

(4) Degree of public need for the proposed action, including the consequences of delay.

(5) Number of persons and agencies affected.

(6) Availability of relevant information.

(7) Degree to which a substantial dispute exists as to the size, location, nature, or consequences of the proposed action and its effects.

(8) Time limits imposed on the agency by law, regulation, Executive order, or court ordered deadlines.

(9) Time necessary to conduct government-to-government Tribal consultation.

(e) The schedule for environmental impact statements shall include the following milestones:

(1) The publication of the notice of intent;

(2) The issuance of the draft environmental impact statement;

(3) The public comment period on the draft environmental impact statement, consistent with § 1506.10 of this subchapter;

(4) The issuance of the final environmental impact statement; and

(5) The issuance of the record of decision.

(f) The schedule for environmental assessments shall include the following milestones:

- (1) Decision to prepare an environmental assessment;
- (2) Issuance of the draft environmental assessment, where applicable;
- (3) The public comment period on the draft environmental assessment, consistent with §1501.5 of this subchapter, where applicable; and
- (4) Issuance of the final environmental assessment and decision on whether to issue a finding of no significant impact or issue a notice of intent to prepare an environmental impact statement.

(g) An agency may designate a person (such as the project manager or a person in the agency's office with NEPA responsibilities) to expedite the NEPA process.

(h) For environmental impact statements, agencies shall make schedules for completing the NEPA process publicly available, such as on their website or another publicly accessible platform. If agencies make subsequent changes to the schedule, agencies shall publish revisions to the schedule and explain the basis for substantial changes.

**§ 1501.11 Programmatic environmental documents and tiering.**

(a) *Programmatic environmental documents.* Agencies may prepare programmatic environmental documents, which may be either environmental impact statements or environmental assessments, to evaluate the environmental effects of policies, programs, plans, or groups of related activities. When agencies prepare such documents, they should be relevant to the agency decisions and timed to coincide with meaningful points in agency planning and decision making. Agencies may use programmatic environmental documents to conduct a broad or holistic evaluation of effects or policy alternatives; evaluate widely applicable measures; or avoid duplicative analysis for individual actions by first considering relevant issues at a broad or programmatic level.

(1) When preparing programmatic environmental documents (including proposals by more than one agency), agen-

cies may find it useful to evaluate the proposal(s) in one of the following ways:

- (i) Geographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area.
- (ii) Thematically or by sector, including actions that have relevant similarities, such as common timing, effects, alternatives, methods of implementation, technology, media, or subject matter.
- (iii) By stage of technological development, including Federal or federally assisted research, development, or demonstration programs for new technologies that, if applied, could significantly affect the quality of the human environment. Documents on such programs should be completed before the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or limit the choice of reasonable alternatives.

(2) Agency actions that may be appropriate for programmatic environmental documents include:

- (i) Programs, policies, or plans, including land use or resource management plans;
- (ii) Regulations;
- (iii) National or regional actions;
- (iv) Actions that have multiple stages or phases, and are part of an overall plan or program; or
- (v) A group of projects or related types of projects.

(3) Agencies should, as appropriate, employ scoping (§1502.4 of this subchapter), tiering (paragraph (b) of this section), and other methods listed in §§1500.4 and 1500.5 of this subchapter, to describe the relationship between the programmatic environmental document and related individual actions and to avoid duplication and delay. The programmatic environmental document shall identify any decisions or categories of decisions that the agency anticipates making in reliance on it.

(b) *Tiering.* Where an existing environmental impact statement, environmental assessment, or programmatic environmental document is relevant to a later proposed action, agencies may employ tiering. Tiering allows subsequent tiered environmental analysis to